

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

LEA BLOTTIN

Plaintiff,

VS.

MARY KAY, INC.

Defendant.

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NO. 3-10-CV-1905-M-BD

ORDER

The United States Magistrate Judge made Findings, Conclusions and a Recommendation in this case. Both parties filed objections, and the District Court has made a *de novo* review of those portions of the proposed findings and recommendation to which objection was made. The objections are overruled, and the Court ACCEPTS the Findings, Conclusions and Recommendation of the United States Magistrate Judge. Defendant's Motion for Summary Judgment is granted in part and denied in part. The Motion is granted with respect to: (1) Plaintiff's section 1981 and TCHRA retaliation claims based on allegations relating to her shocked expression, leaning back in her chair, and silent aversion to Joiner's remarks, as those reactions do not constitute protected activity; and (2) Plaintiff's section 1981, TCHRA, and FMLA retaliation claims based on any alleged adverse employment action other than her demotion, the denial of a bonus, her relocation to a smaller office, the loss of her laptop computer, her negative performance review, and her alleged constructive discharge. In all other respects, the Defendant's Motion is denied. With respect to Plaintiff's Motion for Partial Summary Judgment, the Defendant's "defense" of failure to state a claim upon which relief can be granted, and its affirmative defenses of failure to exhaust administrative remedies

and limitations with respect to plaintiff's claims under section 1981 and the FMLA are denied as a matter of law. In all other respects, the Plaintiff's Motion is denied.

SO ORDERED this 16th day of February, 2012.

A handwritten signature in black ink, reading "Barbara M. G. Lynn". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

BARBARA M. G. LYNN
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF TEXAS